

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

---

RONALD JORDAN, ROBERT McKAY, and THE MBTA POLICE PATROLMAN'S UNION,	)
	)
Plaintiffs,	)
	)
vs.	) Civil Action No. 04-10927-RGS
	)
JOSEPH C. CARTER, individually and as Chief of the MBTA Police Department and THE MBTA POLICE DEPARTMENT,	)
	)
Defendants.	)
	)

---

**DEFENDANTS' ASSENTED-TO MOTION TO EXCEED PAGE LIMIT**

Defendants respectfully request leave to submit a brief in support of their motion for summary judgment of 29 pages. In support of this request, defendants state:

1. This case concerns First Amendment claims asserted by the plaintiffs challenging disciplinary action taken against them by their employer, the MBTA Police Department. The disciplinary charges that underlie the case involve some forty or more conversations on recorded telephone lines, which require discussion. The governing law imposes a four-part test for such claims, and the case law relevant to the test, as well as the separate defense of qualified immunity as to the claims against the individual defendant, is voluminous as well. The additional pages are necessary properly to present the case for the Court's consideration.

2. Plaintiffs' counsel has authorized defendants to state that the plaintiffs assent to this request.

WHEREFORE, defendants respectfully request that this motion be allowed, and that they be permitted to file a summary judgment brief of 29 pages.

Respectfully submitted,

MBTA POLICE DEPARTMENT  
CHIEF JOSEPH C. CARTER

By their attorneys,

/s/ Mark W. Batten

Mark W. Batten  
PROSKAUER ROSE LLP  
One International Place  
Boston, MA 02110  
(617) 526-9850

Dated: December 15, 2006

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on all counsel of record, either through the electronic filing process or by first-class mail, postage prepaid, this 15<sup>th</sup> day of December, 2006.

/s/Mark W. Batten

Mark W. Batten